REMARKS

In the Notice of Non-Compliant Amendment dated February 28, 2007, it is indicated that, for the Amendment and Response to Office Action filed February 12, 2007 to be compliant with rule 1.121. Applicants submit herewith a complete listing of the claims with their current status, as required. The Response is now believed to be fully compliant. Applicants' Remarks as submitted on February 12, 2007 are re-submitted below. The Examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.

35 U.S.C. 101

Claims 1, 16, 28, 29 and 62 are rejected under 35 U.S.C. 101 as being non-statutory as they do not produce a tangible result.

The rejection under 35 U.S.C. 101 is viewed as improper, as the result of claims 1, 16, 28, 29 and 62 is clearly stated as being a computed probability that a detected event caused a service change based on gathered information recited in previous claim elements. This result, the probability that a detected event caused a service change, is clearly useful, tangible and concrete. In particular, the probability returned by the claims is capable of being treated as a fact, providing correspondence between events and service changes, and is thus deemed to be a tangible result. Therefore, the rejection under 35 U.S.C. 101 is traversed and reconsideration is requested.

Claim 28 is rejected under 35 U.S.C. 101 as the Examiner contends that the system of claim 28 is directed to a software suite, however this language dose not appear within the claim itself. By reading an embodiment in the specification into the claim, the Examiner has

significantly narrowed the present claim in a manner undesired by the Applicant. Therefore, the rejection under 35 U.S.C. 101 is viewed to be improper and reconsideration is requested.

35 U.S.C. 102(e)

Claims 1-3, 6, 11-16, 20-21, 23-29, 62, 65 and 67-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Ho (US Pat. No. 6,597,777; herein after "Ho"). For at least the reasons set forth below, this rejection is respectfully traversed and reconsideration is requested.

Ho discusses a system and method of determining when anomalies occur during network transactions. Specifically, Ho discusses monitoring a transaction, determining the traffic intensity of the transaction, and then comparing the current transaction data with a historical account of predicted data to determine if the current transaction qualifies as an anomaly (Ho, Col. 3, ll. 10-32). Transactions are monitored by sampling activity with a network service at an interval, such as a 15 minute interval (Col. 9, ll. 60-67). Past recorded data is then used to determine if an anomaly occurs during the 15 minute interval with respect to the historical data (Col. 10, ll. 1-25).

The historical data in Ho is created by gathering statistics of incoming transactions to generate a predicted model of user interaction with the network (e.g., Ho, Col. 10, ll. 15-16). The historical data may be, for example, a previous week's worth of credit-card transaction lengths, and is used to determine whether a current transaction intensity is aligned with the expected intensity (Ho, Col. 10, ll. 20-27).

Claim 1 includes determining "a service change time window based at least in part upon a change in service quality between a first working state and a second, non-working state" In contrast, Ho samples intervals and then compares them to historical data to identify anomalies.

Ho does not disclose determining a service change time window based on a change in service quality from a working state to a non-working state.

In trying to find this element within Ho, the Examiner points to Col. 3, ll. 27-32 which discusses "[detecting an anomaly] at a certain time." However, this "anomaly" in Ho is merely the result of comparing a sampled interval against historical data, and does not determine a window based on service quality having changed from a working to non-working state. The section cited by the Examiner further states that the real-time traffic intensity is "computed from the current data using the predetermined binning interval." This binning interval, as defined by Ho, is "a variable determined as a function of the median transaction duration so that probabilistically a very large percentage of all transactions will have a duration of less than that binning interval." (Col. 5, ll. 19-24) This binning interval does not relate to determining a window in which a service quality changed from a working to non-working state.

Claims 16, 28, 29 and 62 recite subject matter similar to subject matter rejected under 35 U.S.C. 102(e), specifically, the concept of determining a service change time window. Claims 16, 28, 29 and 62 are therefore viewed to be in condition for allowance for at least the reasons set forth previously for claim 1. Furthermore, claims 2-3, 6, 11-15, 20-21, 23-27, 65 and 67-69 dependent from independent claims 1, 16, 28, 29 and 62 and are therefore viewed to be in condition for allowance for at least the reasons set forth previously.

35 U.S.C. 103(a)

Claims 4, 7, 8, 10, 22 and 66 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Official Notice.

Since the Examiner's Official Notice does not overcome the deficiencies of the Ho reference as previously illustrated the claims presently rejected in view of 35 U.S.C. 103(a) are
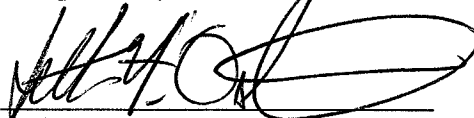
deemed to be in condition for allowance. Therefore, the rejection under 35 U.S.C. 103(a) is

traversed and reconsideration is requested.

For at least the foregoing reasons, reconsideration and allowance of all claims is

respectfully requested. The Commissioner is hereby authorized to charge any additional fees

which may be required or credit any overpayment to our Deposit Account No. **50-4026**.

Respectfully submitted,

Dated: <u>March 21, 2007</u>

Seth H. Ostrow
THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON March 21, 2007

Reg. No. 37,410
DREIER LLP
499 Park Avenue
New York, New York 10022
Tel : (212) 652-3734
Fax: (212) 600-9499

Customer Number: 61834